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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,548	01/06/2005	Masanori Itoh	OKUDP0105US	3263

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EXAMINER

CHOWDHURY, NIGAR

ART UNIT	PAPER NUMBER
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2621

MAIL DATE	DELIVERY MODE
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11/27/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Office Action Summary</p>	Application No. 10/520,548	Applicant(s) ITOH, MASANORI	
	Examiner Nigar Chowdhury	Art Unit 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>02/08/05, 01/06/05</u> . | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
5) <input type="checkbox"/> Notice of Informal Patent Application
6) <input type="checkbox"/> Other: _____. |
|--|---|

DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. Claim 11 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter as follows. Claim 11 defines a **storage medium** embodying functional descriptive material. However, the claim does not define a computer-readable medium or memory and is thus non-statutory for that reason (i.e., "When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized"-Guidelines Annex IV). That is, the scope of the presently claimed **storage medium** can range from paper on which the program is written, to a program simply contemplated and memorized by a person.

The examiner suggests amending the claim to embody the storage medium on "computer-readable medium" or equivalent in order to make the claim statutory. Any amendment to the claim should be commensurate with its corresponding disclosure.

2. Claims 14, 16 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter as follows. Claims 14, and

16 defines a **computer program** embodying functional descriptive material. However, the claim does not define a computer-readable medium or memory and is thus non-statutory for that reason (i.e., "When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized"-Guidelines Annex IV). That is, the scope of the presently claimed **computer program** can range from paper on which the program is written, to a program simply contemplated and memorized by a person.

The examiner suggests amending the claim to embody the storage medium on "computer-readable medium" or equivalent in order to make the claim statutory. Any amendment to the claim should be commensurate with its corresponding disclosure.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-7, 10-17 are rejected under 35 U.S.C. 102(e) as being anticipated by US 2003/0070040 by Sasaki et al.

4. Regarding **claim 1**, a data processor comprising:

- a receiving section for receiving video data and audio data (fig. 1, paragraph 0050, 0056);
- a compressing section for generating encoded data, complying with the MPEG-2 system standard, by encoding the video data and the audio data received (fig. 1, paragraph 0050, 0056);
- an auxiliary information generating section for generating auxiliary information, which includes reference information to make reference to the encoded data and attribute information that uses a video object unit (VOBU) of the encoded data as a sample unit and that describes an attribute of the sample unit (fig. 1, 6, paragraph 0058, 0084-0085);
- a writing section for writing the encoded data and the auxiliary information on a storage medium as a data file and an auxiliary information file, respectively, wherein the encoded data is decodable by either the auxiliary information file or the MPEG-2 system standard (fig. 1, 6, paragraph 0050, 0056, 0058, 0084-0085).

5. Regarding **claim 2**, the data processor wherein the reference information represents the file name and storage location of the data file stored on the storage medium (fig. 6, paragraph 0084-0085).

6. Regarding **claim 3**, the data processor wherein the compressing section generates the encoded data as a plurality of sets, and wherein the auxiliary information generating section generates the reference information that makes reference to each set of encoded data (fig. 6, paragraph 0050, 0056, 0084-0085).

7. Regarding **claim 4**, the data processor wherein the compressing section generates the encoded data as a plurality of sets (fig. 1, paragraph 0010, 0013, 0040, 0043, 0046), and wherein the auxiliary information generating section generates stream data as a single stream by arranging the plurality of sets of encoded data as a series (paragraph 0051, 0058, 0084-0085, 0113), and also generates auxiliary information that further describes location information specifying the storage location of the encoded data if the data size of the encoded data is not constant every time the data is read (fig. 1, 6, paragraph 0013, 0045, 0084-0085, 0111-0112).

8. Regarding **claim 5**, the data processor wherein the compressing section generates the encoded data as either an MPEG-2 program stream or an MPEG-2 transport stream (fig. 1, paragraph 0039, 0052).

9. Regarding **claim 6**, the data processor wherein the auxiliary information generating section describes an audio frame of encoded audio data, representing the audio data of the encoded data, as another sample unit in the attribute information (fig. 1, 0056-0058, 0068).

10. Regarding **claim 7**, the data processor wherein the compressing section generates first, second and third data files, the second data file including frame data that is needed to decode the encoded data of the first and third data files continuously with no time gap left (fig. 3-5, 10).

11. **Claims 10-11** are rejected for the same reason as discussed in the corresponding claim 1 above.

12. Regarding **claim 12**, a data processor comprising:

- a reading section for reading the auxiliary information file from the stream data and also reading the data file in response to a control signal (fig. 2, paragraph 0060-0061, 0070);
- a reading control section for generating, as the control signal, a signal instructing that the data file be read in accordance with the reference information defined by the auxiliary information of the auxiliary information file (fig. 2, paragraph 0060-0072);
- a decoding section, which receives the encoded data from the data file read and the auxiliary information and which decodes

the encoded data into the video data and the audio data in accordance with the attribute information included in the auxiliary information (fig. 2, paragraph 0060-0072);

- an output section for outputting the video and audio data decoded (fig. 2, paragraph 0060-0072).

13. **Claims 13-14** are rejected for the same reason as discussed in the corresponding claim 1 above

14. **Claims 15-16** are rejected for the same reason as discussed in the corresponding claim 12 above

15. **Claim 17** is rejected for the same reason as discussed in the corresponding claim 1 above

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. **Claims 8-9** are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2003/0070040 by Sasaki et al.

17. Regarding **claim 8**, Sasaki discloses the data processor wherein the auxiliary information generating section generates an auxiliary information file but fails to disclose auxiliary information that is described in the MP4 format.

It is noted that the use of MP4 is old and well-known in the recording art. Therefore, official notice is taken. Moreover, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a well-known MP4 to compress the video and audio data for having more space in the storage medium.

18. Regarding **claim 9**, Sasaki discloses the data processor wherein the auxiliary information generating section generates an auxiliary information file but fails to disclose auxiliary information file that is described in the QuickTime format.

It is noted that the use of QuickTime format is old and well-known in the recording art. Therefore, official notice is taken. Moreover, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a well-known QuickTime format which maintain tracks in a hierarchal data structure consisting of objects called atoms. An atom can be a parent to other atoms or it can contain media or edit data, but it cannot do both. QuickTime format is particularly suited for editing, as it is capable of importing and editing in place (without data copying)

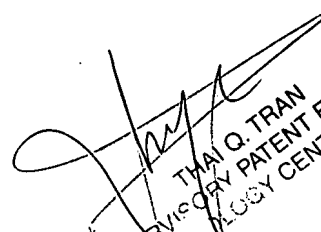
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nigar Chowdhury whose telephone number is 571-272-8890. The examiner can normally be reached on 9 AM - 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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11/19/2007


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